



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0615

Introduced 2/5/2007, by Rep. Kenneth Dunkin

SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-7
705 ILCS 405/1-8

from Ch. 37, par. 801-7
from Ch. 37, par. 801-8

Amends the Juvenile Court Act of 1987. Provides that the court order permitting disclosure of law enforcement records maintained by law enforcement agencies that relate to a minor who has been arrested or taken into custody before his or her 17th birthday and juvenile court records must be issued by a judge presiding over matters pursuant to the Act. Provides that for purposes of obtaining these documents, a civil subpoena is not an order of the court. Provides that in cases where the records concern a pending juvenile court case, the party seeking to inspect the records shall provide actual notice to the attorney or guardian ad litem of the minor whose records are sought. Provides that in cases where the records concern a juvenile court case that is no longer pending, the party seeking to inspect the records shall provide actual notice to the minor or the minor's parent or legal guardian, and the matter shall be referred to the chief judge presiding over matters pursuant to the Act. Provides that in determining whether the records should be available for inspection, the court shall consider the minor's interest in confidentiality and rehabilitation over the moving party's interest in obtaining the information. Provides that any records obtained in violation of these provisions shall not be admissible in any criminal or civil proceeding, or operate to disqualify a minor from subsequently holding public office or securing employment, or operate as a forfeiture of any public benefit, right, privilege, or right to receive any license granted by public authority. Effective immediately.

LRB095 06667 RLC 26776 b

1 AN ACT concerning courts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 1-7 and 1-8 as follows:

6 (705 ILCS 405/1-7) (from Ch. 37, par. 801-7)

7 Sec. 1-7. Confidentiality of law enforcement records.

8 (A) Inspection and copying of law enforcement records
9 maintained by law enforcement agencies that relate to a minor
10 who has been arrested or taken into custody before his or her
11 17th birthday shall be restricted to the following:

12 (1) Any local, State or federal law enforcement
13 officers of any jurisdiction or agency when necessary for
14 the discharge of their official duties during the
15 investigation or prosecution of a crime or relating to a
16 minor who has been adjudicated delinquent and there has
17 been a previous finding that the act which constitutes the
18 previous offense was committed in furtherance of criminal
19 activities by a criminal street gang. For purposes of this
20 Section, "criminal street gang" has the meaning ascribed to
21 it in Section 10 of the Illinois Streetgang Terrorism
22 Omnibus Prevention Act.

23 (2) Prosecutors, probation officers, social workers,

1 or other individuals assigned by the court to conduct a
2 pre-adjudication or pre-disposition investigation, and
3 individuals responsible for supervising or providing
4 temporary or permanent care and custody for minors pursuant
5 to the order of the juvenile court, when essential to
6 performing their responsibilities.

7 (3) Prosecutors and probation officers:

8 (a) in the course of a trial when institution of
9 criminal proceedings has been permitted or required
10 under Section 5-805; or

11 (b) when institution of criminal proceedings has
12 been permitted or required under Section 5-805 and such
13 minor is the subject of a proceeding to determine the
14 amount of bail; or

15 (c) when criminal proceedings have been permitted
16 or required under Section 5-805 and such minor is the
17 subject of a pre-trial investigation, pre-sentence
18 investigation, fitness hearing, or proceedings on an
19 application for probation.

20 (4) Adult and Juvenile Prisoner Review Board.

21 (5) Authorized military personnel.

22 (6) Persons engaged in bona fide research, with the
23 permission of the Presiding Judge of the Juvenile Court and
24 the chief executive of the respective law enforcement
25 agency; provided that publication of such research results
26 in no disclosure of a minor's identity and protects the

1 confidentiality of the minor's record.

2 (7) Department of Children and Family Services child
3 protection investigators acting in their official
4 capacity.

5 (8) The appropriate school official. Inspection and
6 copying shall be limited to law enforcement records
7 transmitted to the appropriate school official by a local
8 law enforcement agency under a reciprocal reporting system
9 established and maintained between the school district and
10 the local law enforcement agency under Section 10-20.14 of
11 the School Code concerning a minor enrolled in a school
12 within the school district who has been arrested or taken
13 into custody for any of the following offenses:

14 (i) unlawful use of weapons under Section 24-1 of
15 the Criminal Code of 1961;

16 (ii) a violation of the Illinois Controlled
17 Substances Act;

18 (iii) a violation of the Cannabis Control Act;

19 (iv) a forcible felony as defined in Section 2-8 of
20 the Criminal Code of 1961; or

21 (v) a violation of the Methamphetamine Control and
22 Community Protection Act.

23 (9) Mental health professionals on behalf of the
24 Illinois Department of Corrections or the Department of
25 Human Services or prosecutors who are evaluating,
26 prosecuting, or investigating a potential or actual

1 petition brought under the Sexually Violent Persons
2 Commitment Act relating to a person who is the subject of
3 juvenile law enforcement records or the respondent to a
4 petition brought under the Sexually Violent Persons
5 Commitment Act who is the subject of the juvenile law
6 enforcement records sought. Any records and any
7 information obtained from those records under this
8 paragraph (9) may be used only in sexually violent persons
9 commitment proceedings.

10 (B) (1) Except as provided in paragraph (2), no law
11 enforcement officer or other person or agency may knowingly
12 transmit to the Department of Corrections, Adult Division
13 or the Department of State Police or to the Federal Bureau
14 of Investigation any fingerprint or photograph relating to
15 a minor who has been arrested or taken into custody before
16 his or her 17th birthday, unless the court in proceedings
17 under this Act authorizes the transmission or enters an
18 order under Section 5-805 permitting or requiring the
19 institution of criminal proceedings.

20 (2) Law enforcement officers or other persons or
21 agencies shall transmit to the Department of State Police
22 copies of fingerprints and descriptions of all minors who
23 have been arrested or taken into custody before their 17th
24 birthday for the offense of unlawful use of weapons under
25 Article 24 of the Criminal Code of 1961, a Class X or Class
26 1 felony, a forcible felony as defined in Section 2-8 of

1 the Criminal Code of 1961, or a Class 2 or greater felony
2 under the Cannabis Control Act, the Illinois Controlled
3 Substances Act, the Methamphetamine Control and Community
4 Protection Act, or Chapter 4 of the Illinois Vehicle Code,
5 pursuant to Section 5 of the Criminal Identification Act.
6 Information reported to the Department pursuant to this
7 Section may be maintained with records that the Department
8 files pursuant to Section 2.1 of the Criminal
9 Identification Act. Nothing in this Act prohibits a law
10 enforcement agency from fingerprinting a minor taken into
11 custody or arrested before his or her 17th birthday for an
12 offense other than those listed in this paragraph (2).

13 (C) The records of law enforcement officers concerning all
14 minors under 17 years of age must be maintained separate from
15 the records of arrests and may not be open to public inspection
16 or their contents disclosed to the public except by order of
17 the court presiding over matters pursuant to this Act or when
18 the institution of criminal proceedings has been permitted or
19 required under Section 5-805 or such a person has been
20 convicted of a crime and is the subject of pre-sentence
21 investigation or proceedings on an application for probation or
22 when provided by law. For purposes of obtaining documents
23 pursuant to this Section, a civil subpoena is not an order of
24 the court.

25 (1) In cases where the law enforcement records concern
26 a pending juvenile court case, the party seeking to inspect

1 the records shall provide actual notice to the attorney or
2 guardian ad litem of the minor whose records are sought.

3 (2) In cases where the records concern a juvenile court
4 case that is no longer pending, the party seeking to
5 inspect the records shall provide actual notice to the
6 minor or the minor's parent or legal guardian, and the
7 matter shall be referred to the chief judge presiding over
8 matters pursuant to this Act.

9 (3) In determining whether the records should be
10 available for inspection, the court shall consider the
11 minor's interest in confidentiality and rehabilitation
12 over the moving party's interest in obtaining the
13 information. Any records obtained in violation of this
14 subsection (C) shall not be admissible in any criminal or
15 civil proceeding, or operate to disqualify a minor from
16 subsequently holding public office or securing employment,
17 or operate as a forfeiture of any public benefit, right,
18 privilege, or right to receive any license granted by
19 public authority.

20 (D) Nothing contained in subsection (C) of this Section
21 shall prohibit the inspection or disclosure to victims and
22 witnesses of photographs contained in the records of law
23 enforcement agencies when the inspection and disclosure is
24 conducted in the presence of a law enforcement officer for the
25 purpose of the identification or apprehension of any person
26 subject to the provisions of this Act or for the investigation

1 or prosecution of any crime.

2 (E) Law enforcement officers may not disclose the identity
3 of any minor in releasing information to the general public as
4 to the arrest, investigation or disposition of any case
5 involving a minor.

6 (F) Nothing contained in this Section shall prohibit law
7 enforcement agencies from communicating with each other by
8 letter, memorandum, teletype or intelligence alert bulletin or
9 other means the identity or other relevant information
10 pertaining to a person under 17 years of age if there are
11 reasonable grounds to believe that the person poses a real and
12 present danger to the safety of the public or law enforcement
13 officers. The information provided under this subsection (F)
14 shall remain confidential and shall not be publicly disclosed,
15 except as otherwise allowed by law.

16 (G) Nothing in this Section shall prohibit the right of a
17 Civil Service Commission or appointing authority of any state,
18 county or municipality examining the character and fitness of
19 an applicant for employment with a law enforcement agency,
20 correctional institution, or fire department from obtaining
21 and examining the records of any law enforcement agency
22 relating to any record of the applicant having been arrested or
23 taken into custody before the applicant's 17th birthday.

24 (Source: P.A. 94-556, eff. 9-11-05.)

25 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

1 Sec. 1-8. Confidentiality and accessibility of juvenile
2 court records.

3 (A) Inspection and copying of juvenile court records
4 relating to a minor who is the subject of a proceeding under
5 this Act shall be restricted to the following:

6 (1) The minor who is the subject of record, his
7 parents, guardian and counsel.

8 (2) Law enforcement officers and law enforcement
9 agencies when such information is essential to executing an
10 arrest or search warrant or other compulsory process, or to
11 conducting an ongoing investigation or relating to a minor
12 who has been adjudicated delinquent and there has been a
13 previous finding that the act which constitutes the
14 previous offense was committed in furtherance of criminal
15 activities by a criminal street gang.

16 Before July 1, 1994, for the purposes of this Section,
17 "criminal street gang" means any ongoing organization,
18 association, or group of 3 or more persons, whether formal
19 or informal, having as one of its primary activities the
20 commission of one or more criminal acts and that has a
21 common name or common identifying sign, symbol or specific
22 color apparel displayed, and whose members individually or
23 collectively engage in or have engaged in a pattern of
24 criminal activity.

25 Beginning July 1, 1994, for purposes of this Section,
26 "criminal street gang" has the meaning ascribed to it in

1 Section 10 of the Illinois Streetgang Terrorism Omnibus
2 Prevention Act.

3 (3) Judges, hearing officers, prosecutors, probation
4 officers, social workers or other individuals assigned by
5 the court to conduct a pre-adjudication or predisposition
6 investigation, and individuals responsible for supervising
7 or providing temporary or permanent care and custody for
8 minors pursuant to the order of the juvenile court when
9 essential to performing their responsibilities.

10 (4) Judges, prosecutors and probation officers:

11 (a) in the course of a trial when institution of
12 criminal proceedings has been permitted or required
13 under Section 5-805; or

14 (b) when criminal proceedings have been permitted
15 or required under Section 5-805 and a minor is the
16 subject of a proceeding to determine the amount of
17 bail; or

18 (c) when criminal proceedings have been permitted
19 or required under Section 5-805 and a minor is the
20 subject of a pre-trial investigation, pre-sentence
21 investigation or fitness hearing, or proceedings on an
22 application for probation; or

23 (d) when a minor becomes 17 years of age or older,
24 and is the subject of criminal proceedings, including a
25 hearing to determine the amount of bail, a pre-trial
26 investigation, a pre-sentence investigation, a fitness

1 hearing, or proceedings on an application for
2 probation.

3 (5) Adult and Juvenile Prisoner Review Boards.

4 (6) Authorized military personnel.

5 (7) Victims, their subrogees and legal
6 representatives; however, such persons shall have access
7 only to the name and address of the minor and information
8 pertaining to the disposition or alternative adjustment
9 plan of the juvenile court.

10 (8) Persons engaged in bona fide research, with the
11 permission of the presiding judge of the juvenile court and
12 the chief executive of the agency that prepared the
13 particular records; provided that publication of such
14 research results in no disclosure of a minor's identity and
15 protects the confidentiality of the record.

16 (9) The Secretary of State to whom the Clerk of the
17 Court shall report the disposition of all cases, as
18 required in Section 6-204 of the Illinois Vehicle Code.
19 However, information reported relative to these offenses
20 shall be privileged and available only to the Secretary of
21 State, courts, and police officers.

22 (10) The administrator of a bonafide substance abuse
23 student assistance program with the permission of the
24 presiding judge of the juvenile court.

25 (11) Mental health professionals on behalf of the
26 Illinois Department of Corrections or the Department of

1 Human Services or prosecutors who are evaluating,
2 prosecuting, or investigating a potential or actual
3 petition brought under the Sexually Persons Commitment Act
4 relating to a person who is the subject of juvenile court
5 records or the respondent to a petition brought under the
6 Sexually Violent Persons Commitment Act, who is the subject
7 of juvenile court records sought. Any records and any
8 information obtained from those records under this
9 paragraph (11) may be used only in sexually violent persons
10 commitment proceedings.

11 (B) A minor who is the victim in a juvenile proceeding
12 shall be provided the same confidentiality regarding
13 disclosure of identity as the minor who is the subject of
14 record.

15 (C) Except as otherwise provided in this subsection (C),
16 juvenile court records shall not be made available to the
17 general public but may be inspected by representatives of
18 agencies, associations and news media or other properly
19 interested persons by general or special order of the court
20 presiding over matters pursuant to this Act. ~~The State's~~
21 ~~Attorney, the minor, his parents, guardian and counsel shall at~~
22 ~~all times have the right to examine court files and records.~~

23 (0.1) In cases where the records concern a pending
24 juvenile court case, the party seeking to inspect the
25 juvenile court records shall provide actual notice to the
26 attorney or guardian ad litem of the minor whose records

1 are sought.

2 (0.2) In cases where the records concern a juvenile
3 court case that is no longer pending, the party seeking to
4 inspect the juvenile court records shall provide actual
5 notice to the minor or the minor's parent or legal
6 guardian, and the matter shall be referred to the chief
7 judge presiding over matters pursuant to this Act.

8 (0.3) In determining whether the records should be
9 available for inspection, the court shall consider the
10 minor's interest in confidentiality and rehabilitation
11 over the moving party's interest in obtaining the
12 information. The State's Attorney, the minor, and the
13 minor's parents, guardian, and counsel shall at all times
14 have the right to examine court files and records. For
15 purposes of obtaining documents pursuant to this Section, a
16 civil subpoena is not an order of the court.

17 (0.4) Any records obtained in violation of this
18 subsection (C) shall not be admissible in any criminal or
19 civil proceeding, or operate to disqualify a minor from
20 subsequently holding public office, or operate as a
21 forfeiture of any public benefit, right, privilege, or
22 right to receive any license granted by public authority.

23 (1) The court shall allow the general public to have
24 access to the name, address, and offense of a minor who is
25 adjudicated a delinquent minor under this Act under either
26 of the following circumstances:

1 (A) The adjudication of delinquency was based upon
2 the minor's commission of first degree murder, attempt
3 to commit first degree murder, aggravated criminal
4 sexual assault, or criminal sexual assault; or

5 (B) The court has made a finding that the minor was
6 at least 13 years of age at the time the act was
7 committed and the adjudication of delinquency was
8 based upon the minor's commission of: (i) an act in
9 furtherance of the commission of a felony as a member
10 of or on behalf of a criminal street gang, (ii) an act
11 involving the use of a firearm in the commission of a
12 felony, (iii) an act that would be a Class X felony
13 offense under or the minor's second or subsequent Class
14 2 or greater felony offense under the Cannabis Control
15 Act if committed by an adult, (iv) an act that would be
16 a second or subsequent offense under Section 402 of the
17 Illinois Controlled Substances Act if committed by an
18 adult, (v) an act that would be an offense under
19 Section 401 of the Illinois Controlled Substances Act
20 if committed by an adult, (vi) an act that would be a
21 second or subsequent offense under Section 60 of the
22 Methamphetamine Control and Community Protection Act,
23 or (vii) an act that would be an offense under another
24 Section of the Methamphetamine Control and Community
25 Protection Act.

26 (2) The court shall allow the general public to have

1 access to the name, address, and offense of a minor who is
2 at least 13 years of age at the time the offense is
3 committed and who is convicted, in criminal proceedings
4 permitted or required under Section 5-4, under either of
5 the following circumstances:

6 (A) The minor has been convicted of first degree
7 murder, attempt to commit first degree murder,
8 aggravated criminal sexual assault, or criminal sexual
9 assault,

10 (B) The court has made a finding that the minor was
11 at least 13 years of age at the time the offense was
12 committed and the conviction was based upon the minor's
13 commission of: (i) an offense in furtherance of the
14 commission of a felony as a member of or on behalf of a
15 criminal street gang, (ii) an offense involving the use
16 of a firearm in the commission of a felony, (iii) a
17 Class X felony offense under or a second or subsequent
18 Class 2 or greater felony offense under the Cannabis
19 Control Act, (iv) a second or subsequent offense under
20 Section 402 of the Illinois Controlled Substances Act,
21 (v) an offense under Section 401 of the Illinois
22 Controlled Substances Act, (vi) an act that would be a
23 second or subsequent offense under Section 60 of the
24 Methamphetamine Control and Community Protection Act,
25 or (vii) an act that would be an offense under another
26 Section of the Methamphetamine Control and Community

1 Protection Act.

2 (D) Pending or following any adjudication of delinquency
3 for any offense defined in Sections 12-13 through 12-16 of the
4 Criminal Code of 1961, the victim of any such offense shall
5 receive the rights set out in Sections 4 and 6 of the Bill of
6 Rights for Victims and Witnesses of Violent Crime Act; and the
7 juvenile who is the subject of the adjudication,
8 notwithstanding any other provision of this Act, shall be
9 treated as an adult for the purpose of affording such rights to
10 the victim.

11 (E) Nothing in this Section shall affect the right of a
12 Civil Service Commission or appointing authority of any state,
13 county or municipality examining the character and fitness of
14 an applicant for employment with a law enforcement agency,
15 correctional institution, or fire department to ascertain
16 whether that applicant was ever adjudicated to be a delinquent
17 minor and, if so, to examine the records of disposition or
18 evidence which were made in proceedings under this Act.

19 (F) Following any adjudication of delinquency for a crime
20 which would be a felony if committed by an adult, or following
21 any adjudication of delinquency for a violation of Section
22 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the
23 State's Attorney shall ascertain whether the minor respondent
24 is enrolled in school and, if so, shall provide a copy of the
25 dispositional order to the principal or chief administrative
26 officer of the school. Access to such juvenile records shall be

1 limited to the principal or chief administrative officer of the
2 school and any guidance counselor designated by him.

3 (G) Nothing contained in this Act prevents the sharing or
4 disclosure of information or records relating or pertaining to
5 juveniles subject to the provisions of the Serious Habitual
6 Offender Comprehensive Action Program when that information is
7 used to assist in the early identification and treatment of
8 habitual juvenile offenders.

9 (H) When a Court hearing a proceeding under Article II of
10 this Act becomes aware that an earlier proceeding under Article
11 II had been heard in a different county, that Court shall
12 request, and the Court in which the earlier proceedings were
13 initiated shall transmit, an authenticated copy of the Court
14 record, including all documents, petitions, and orders filed
15 therein and the minute orders, transcript of proceedings, and
16 docket entries of the Court.

17 (I) The Clerk of the Circuit Court shall report to the
18 Department of State Police, in the form and manner required by
19 the Department of State Police, the final disposition of each
20 minor who has been arrested or taken into custody before his or
21 her 17th birthday for those offenses required to be reported
22 under Section 5 of the Criminal Identification Act. Information
23 reported to the Department under this Section may be maintained
24 with records that the Department files under Section 2.1 of the
25 Criminal Identification Act.

26 (Source: P.A. 94-556, eff. 9-11-05.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.